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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10 075,076 | 02 13 2002 | Matthew L. Sharb | 11397-003 | 7571 |

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J. Matthew Buchanan
BRINKS HOFER GILSON & LIONE
P.O. Box 10395
Chicago, IL 60610

EXAMINER

UPTON, CHRISTOPHER

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

1724

DATE MAILED: 07/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

075076

Applicant(s)

Sharb

Examiner

Upton

Group Art Unit

1724

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE

3

MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- ☐ Responsive to communication(s) filed on _____
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-20 is/are pending in the application.
- ☐ Of the above claim(s) is/are withdrawn from consideration.
- ☒ Claim(s) 1-7 is/are allowed.
- ☒ Claim(s) 8-20 is/are rejected.
- ☐ Claim(s) is/are objected to.
- ☐ Claim(s) are subject to restriction or election requirement

Application Papers

- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some* ☐ None of the:
 - ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____
 - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

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1. Claims 8-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The structure of the "base" in claims 8 and 20 is unclear, especially in view of the bracket connection recitations of claims 14 and 15.

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 8-12 and 17-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Baxter, Sr.

Baxter discloses a wastewater treatment system having an aeration tank (34) within a settling tank having upper (38) and lower (36) portions, a communicating base below the aeration tank (the straight lower portion of the sidewalls 48) with gas

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diffusers (50), with both the aeration and settling tanks having lower conical portions (42, 49), and with a baffled outlet communicating with the outer tank (44, see also figures 16A-B), a raw liquid inlet communicating with the inner tank (32), and with a skimmer disposed in the clearance between the tanks (see Figures 15A-C), as claimed.

4. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Baxter in view of Singer.

Claim 13 differs from Baxter in recitation of a bracket connecting the tanks. It is well known to use brackets to connect internal and external tanks, as exemplified by Singer (14, 18). It would therefore have been obvious for one of ordinary skill in the art to add brackets between the tanks of Singer, to improve stability.

5. Claims 1-7 are allowed.

The recitation of a skimmer having an intake assembly defining an intake passageway and having a first section with an intake opening connected to a second section by a flexible coupling, a collar with a buoyant member on the exterior surface of the first section near the intake opening, an outlet passage having a lower end in communication with the second section of the intake assembly, and a gas inlet disposed in the outlet passage patentably distinguishes over the prior art of record.

6. Claim 20 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112 set forth in this Office action.

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Claim 16 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112 set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The recitation of a wastewater treatment system having an aeration tank within a settling tank having upper and lower portions, a communicating base below the aeration tank, with an outlet communicating with the settling tank, a raw liquid inlet communicating with the aeration tank, and with a skimmer disposed in the clearance between the tanks, wherein the skimmer comprises an intake assembly in the settling tank with first and second sections connected by a flexible coupling and a collar with a buoyant member disposed around the opening, and an outlet passage communicating with the intake passage and the aeration tank patentably distinguishes over the prior art of record.

7. Claims 14 and 15 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112 set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The recitation of a wastewater treatment system having an aeration tank within a settling tank having upper and lower portions, a communicating base below the aeration tank, with an outlet communicating with the settling tank, a raw liquid inlet communicating with the aeration tank, and with a skimmer disposed in the clearance between the tanks, wherein the aeration and settling tanks are

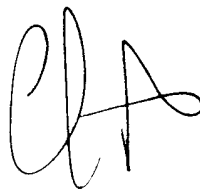
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connected by a bracket along the length of the base and a second bracket along a fraction of the length of the base patentably distinguishes over the prior art of record.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Other references of interest include Etlin, Bernard, Holdeman, Burwell, Wilson, Faircloth, Horsley, Norcross, Dennis and Nichols.

9. Any inquiry concerning this communication should be directed to Christopher Upton at telephone number (703) 308-3741.

A handwritten signature in black ink, appearing to be 'CU' with a stylized flourish.

CHRISTOPHER UPTON
PRIMARY EXAMINER